BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **DAVID S. GINGRAS,** Bar No. 021097 Respondent.	**PDJ 2026-9010** **RESPONDENT'S ANSWER**

Pursuant to Ariz. R. Sup. Ct. 47, Respondent David S. Gingras submits the following Answer to the Complaint filed in this matter:

1. Respondent represented Laura Owens in Maricopa County Superior Court regarding a motion for sanctions filed against her in a paternity case she had filed.

Response: Admit.

2. After being hired by Owens, Respondent became aware, based on his investigation and research, that she had made contradictory statements about her actions and had altered at least one medical record.

Response: Admit.

3. Despite being aware that Owens had given contradictory versions of events and altered at least one medical record, Respondent failed to withdraw as counsel for Owens or, alternatively, failed to diligently investigate and research relevant facts, pursued claims that were without merit, prepared an affidavit for Owens to sign that included false information, failed to take steps to address false statements that Owens made during her deposition and two hearings, and presented Owens' false testimony to the Court.

Response: Respondent admits only the allegation that he "presented" testimony from Owens to the Court which Respondent did not know was false, and that he prepared and affidavit for Owens to sign which he did not know contained any false information. Deny all remaining allegations of this paragraph.

4. During the period of representation, Respondent failed to comply with a court order directing him not to disclose outside of counsel for the parties "any medical or other documentation (exhibits, medical records, etc.) disclosed between the parties."

Response: Deny.

5. During the period of representation, Respondent took steps to prevent Michael Marraccini, a potentially adverse witness, from appearing and testifying at a hearing held on June 10, 2024.

Response: Deny, and affirmatively allege the State Bar's allegation contains knowingly false misrepresentations of fact.

6. During the period of representation, Respondent made public, disparaging remarks on social media about members of the public and Maricopa County Superior Court Judge Julie Mata, who presided over the paternity case filed by Owens.

Response: Respondent admits making certain public statements which contained lawful, truthful statements and opinions, all of which are protected speech under the First Amendment to the United States Constitution and the Arizona Constitution.

7. During the period of representation, Respondent filed and pursued a non-meritorious appeal.

Response: Respondent admits filing and pursuing an *unsuccessful* appeal, but denies it was non-meritorious.

8. At all times relevant, Respondent was licensed to practice law in Arizona, having been admitted to practice in Arizona on October 21, 2004.

Response: Admit.

9. On August 1, 2023, Laura Owens filed, pro se, a Petition for Court Order for Paternity and Legal Decision-Making, Parenting Time, and Child Support ("Petition for Court Order for Paternity") against Clayton Echard (In re Matter of Owens and Echard, Maricopa County Superior Court No. FC2023-052114; hereafter, "the paternity case").

Response: Admit.

10. The Petition for Court Order for Paternity alleged that Owens had become pregnant by Echard.

Response: Admit.

11. On September 14, 2023 (prior to Respondent's involvement in the paternity case), Owens filed, pro se, an Expedited (!) Motion to Seal Court Record, asking the court to seal the entire record in the paternity case.

Response: Admit.

12. Owens attached to that Expedited (!) Motion to Seal Court Record copies of several email messages from Echard to Owens in which he sought evidence that she was pregnant.

Response: Admit that Owens filed a motion with certain attachments, the substance of which speaks for itself.

13. Echard asserted in email messages that Owens (a) was not pregnant by him, (b) had never undergone an ultrasound, (c) had offered illogical excuses to delay testing, and (d) had provided him with a sonogram that had been created from an image on the internet.

Response: Admit that Owens filed a motion with certain attachments, the substance of which speaks for itself.

14. Among the email messages attached to the Expedited (!) Motion to Seal Court Record was a July 25, 2023 email message from Echard to Owens, which reflected that Echard believed that Owens had provided him with a false sonogram.

Response: Admit that Owens filed a motion with certain attachments, the substance of which speaks for itself.

15. The Expedited (!) Motion to Seal Court Record indicated that Owens had failed to provide Echard with evidence that she was pregnant by Echard.

Response: Admit that Owens filed a motion with certain attachments, the substance of which speaks for itself.

16. Owens' September 14, 2023 Expedited (!) Motion to Seal Court Record and other documents in the court record, including Echard's email messages to Owens, placed Respondent on notice that he needed to be diligent in (a) ensuring that Owens was truthful about her health, alleged pregnancy, medical records and events, and (b) determining whether any legitimate evidence existed reflecting that Owens was pregnant and that Echard was the father.

Response: Respondent denies that a pleading filed by a *pro se* litigant more than seven months before Respondent met that litigant in a case in which Respondent was not involved somehow "placed Respondent on notice that he needed to be diligent" beyond the normal duty of diligence owed by every lawyer in every case.

17. Respondent had a duty to diligently investigate and research everything that Owens told him or provided to him.

Response: This allegation contains a legal conclusion for which no response is required. To the extent a response is required, Respondent asserts the State Bar's allegation materially misrepresents the law in multiple respects. *See*, *e.g.*, ER 3.3 [comment 8]:

> **The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact.** A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. See ER 1.0(f). Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood. **If a lawyer reasonably believes that evidence has been materially altered or generated with the intent to deceive the court, the lawyer has an obligation to conduct a reasonable inquiry before submitting the evidence to the court.** The scope of the inquiry will vary according to the circumstances of each case, but factors to consider may include the probative value of the evidence, the value or importance of the case or issue, the source of the evidence, and what, if any, accessible, reliable, and affordable tools or methods are available to assess the evidence's authenticity or integrity. **If after inquiry the lawyer still does not know that the evidence has been materially altered or generated with intent to deceive, the lawyer retains discretion to submit the evidence to the court**. (emphasis added)

Respondent affirmatively alleges that comment 8 to ER 3.3 is an accurate statement of the law, and that a lawyer is obligated to conduct a *reasonable* inquiry when he believes a client may have altered evidence or offered false testimony. Respondent affirmatively alleges he complied with this duty in all respects at all times. Respondent further notes, as explained elsewhere, that sonograms are, as a matter of law, not relevant nor are they material to the issue of paternity. Sonograms are, by Arizona statute, not admissible or even relevant to the issue of paternity. Accordingly, exactly as comment 8 to ER 3.3 states, when he learned of the possibility that Ms. Owens *might* have altered or even

completely fabricated one or more sonograms, Respondent took every reasonable step to investigate that issue, while also keeping in mind that the *probative value of the evidence* was basically ZERO (because sonograms cannot be used to prove or disprove paternity), and thus the "value or importance" of that evidence was minimal. Paternity claims *cannot* be resolved based on sonograms, so the validity of the sonogram in question was largely irrelevant.

18. Respondent failed to diligently investigate and/or research Owens' allegations to determine whether her statements to him, opposing counsel and the court were truthful or that the sonogram provided to him and used during a court hearing on June 10, 2024, was an image created by an ultrasound performed on Owens.

Response: Again, this allegation is based on a knowingly material misstatement of the law. Having said that, Respondent DENIES this allegation.

19. On January 3, 2024, Echard's counsel filed a Motion for Sanctions Pursuant to Rule 26 [of the Arizona Rules of Family Law Procedure], in which he requested that Owens be sanctioned for filing the Petition for Court Order for Paternity and later documents for an improper purpose and without medical evidence to support her claim that she was pregnant.

Response: Admit, and affirmatively allege the Motion for Sanctions was filed in direct violation of the Rules of Family Law Procedure, and that such motion was later withdrawn as a result of that violation.

20. Echard's January 3, 2024 Motion for Sanctions Pursuant to Rule 26 placed Respondent on notice that Echard had claimed that Owens was not pregnant, which created a duty on his part to ensure that his investigation and research thoroughly addressed everything that Owens told him or provided to him.

Response: DENY. Respondent further affirmatively alleges that he did not represent Ms. Owens on January 3, 2024 when the Motion for Sanctions was filed, and did not know about the motion until three months later when he was retained on March 25, 2024.

21. On February 21, 2024, Judge Mata issued a minute entry order scheduling a hearing in the paternity case on June 10, 2024, to address the issue of sanctions and attorney's fees related to the paternity case filed by Owens.

Response: Admit.

22. On March 11, 2024, Echard's counsel filed a Motion to Compel, which stated in part that Owens had testified at her deposition that she had altered a sonogram, falsely claiming it came from Southwest Medical Imaging.

Response: Admit.

23. Based on the March 11, 2024 Motion to Compel, Respondent was once again placed on notice that he needed to be diligent in (a) ensuring that Owens was truthful about her health, alleged pregnancy, medical records and events, and (b) determining

whether any legitimate evidence existed reflecting that Owens was pregnant and that Echard was the father.

Response: DENY. As he has repeatedly explained to Senior Bar Counsel James Lee, Respondent *again* affirmatively alleges that he did not represent Ms. Owen on March 11, 2024 when the Motion to Compel was filed. Respondent further affirmatively alleges that after he was retained on March 25, 2024, he reviewed the Motion to Compel and learned that the attorney who filed it (Echard's counsel Gregg R. Woodnick) **lied to the court in that pleading**. Among other things, Mr. Echard made multiple knowingly false representations of material fact to the court including:

1.) Mr. Woodnick falsely stated in the motion that "At Petitioner's [Laura Owens] Rule 57 deposition on March 1, 2024, Petitioner testified … She "miscarried" two (2) hand sized fetuses sometime in September/October." In truth, as reflected in the deposition transcript which was provided to Mr. Lee before this matter was commenced, Ms. Owens made no such statements in her deposition. Mr. Woodnick simply lied to the court about this fact.

2.) Mr. Woodnick falsely stated in the motion that "At Petitioner's [Laura Owens] Rule 57 deposition on March 1, 2024, Petitioner testified … When she "miscarried," she took photos of what would have been of 19-24 week twin fetuses." In truth, as reflected in the deposition transcript which was provided to Mr. Lee before this matter was commenced, Ms. Owens made no such statements in her deposition. Mr. Woodnick simply lied to the court about this fact.

3.) Mr. Woodnick falsely represented to the Court that Ms. Owens "Petitioner has willfully and wantonly failed to disclose information pursuant to Rule 49" and that she had been "evading any compliance with Rule 49 for over eight (8) months." In truth, Mr. Woodnick knew that *before* the Motion to Compel was filed, Ms. Owens had fully complied with her duty to disclose ALL information required by Family Law Rule 49. Mr. Woodnick simply lied to the court about this fact.

Respondent further affirmatively alleges that in addition to making multiple knowingly false representations to the court in the Motion to Compel, Mr. Woodnick made other knowingly false statements to Respondent during the course of their discussions. Upon learning that Mr. Woodnick had lied to him, Respondent confronted Mr. Woodnick and demanded an explanation as to why Mr. Woodnick had lied to Respondent and to the court. In response, Mr. Woodnick refused to communicate with Respondent, resulting in Respondent moving the court for an order requiring Mr. Woodnick to speak with him (which the court denied). Respondent affirmatively alleges that Mr. Woodnick's repeated acts of dishonesty, and Woodnick's refusal to speak with Respondent (in violation of the Rules of Family Law Procedure, and multiple ethical rules) caused him to reasonably conclude that Mr. Woodnick was not a truthful person, and that his allegations regarding Ms. Owens were false. These unlawful and unethical actions by Mr. Woodnick (which Respondent asked the court to stop, but which the court refused to do) further caused Respondent to reasonably believe that Ms. Owens was telling the truth and that Mr. Echard was not.

24. During or about March 2024, Owens hired Respondent to represent her regarding the Motion for Sanctions Pursuant to Rule 26.

Response: Respondent admits he was retained by Ms. Owens on March 25, 2024 to represent her with respect to all aspects of the *Owens v. Echard* litigation.

25. On March 25, 2024, Respondent filed a notice of appearance on Owens' behalf in the paternity case.

Response: Admit.

26. Upon agreeing to represent Owens, Respondent had a duty in preparing her defense to the Motion for Sanctions Pursuant to Rule 26 and represent her at the June 10, 2024 hearing to (a) diligently investigate and research both parties' assertions and documentation, (b) carefully review the entire court record in the paternity case and related cases between Owens and Echard, (c) review the file provided to him by Owens' former counsel, (d) review the information and documents provided to him by Echard's counsel, and (e) review other information that came to his attention.

Response: This allegation contains a legal conclusion for which no response is required. As noted above, this allegation also materially misstates the law.

27. On March 26, 2024, Echard's counsel filed a Motion for Relief from Judgement [sic] Based on Fraud (hereafter Motion for Relief from Judgement) in In the Matter

of Owens and Echard, Maricopa County Superior Court No. FC2023 052771, an order of protection case.

Response: Admit.

28. That March 26, 2024 *Motion for Relief from Judgment* stated in part:

> On October 6, 2023[,] and October 25, 2023, Plaintiff [Owens] committed fraud when she filed her underlying Petition for Order of Protection and then testified before Judge Doody under the fraudulent pretense that she was pregnant with Defendant [Echard]'s "twins" and that Defendant [Echard] was "cyberbullying her" by posting her "medical records" online." To be clear, **Plaintiff [Owens] was never 6 pregnant by Defendant [Echard]** as they did not have penetrative sexual intercourse.

Response: Admit.

29. That Motion for Relief from Judgement further stated that Owens had admitted during her deposition that she had modified the medical records, which the Court relied upon to grant an order of protection.

Response: Admit the motion contains certain allegations, the substance of which speak for themselves.

30. That Motion for Relief from Judgement noted that Owens had "provided no verifiable medical evidence to support her alleged twin pregnancy and ha[d] admitted that the ultrasound at the core of this Court's basis for granting the Protection Order was de facto fraudulent." (Underlines and italics in original).

Response: Admit the motion contains certain allegations, the substance of which speak for themselves.

31. That Motion for Relief from Judgement contained additional information relevant to the paternity case.

Response: Admit the motion contains certain allegations, the substance of which speak for themselves.

32. That Motion for Relief from Judgement again placed Respondent on notice that he needed to be diligent in (a) ensuring that Owens was truthful about her health, alleged pregnancy, medical records and events, and (b) determining whether any legitimate evidence existed reflecting that Owens was pregnant and that Echard was the father; those issues were relevant to the Motion for Sanctions Pursuant to Rule 26.

Response: Deny.

33. On April 9, 2024, Respondent filed a Notice of Appearance and Notice re: Pending Motion on Owens' behalf in the order of protection case (FC2023-052771).

Response: Admit.

34. On April 22 and May 9, 2024, Respondent provided Echard's counsel with supplemental disclosure statements that failed to adequately address Owens' changing version of events.

Response: Admit that Respondent provided certain disclosures to Echard's counsel. The assertion that such disclosures "*failed* to adequately address Owens' changing version of events" is argumentative, improper, and misstates the legal requirements of what disclosure is required under Family Law Rule 49.

35. On June 10, 2024, Judge Mata presided over a hearing to address Echard's request for sanctions and attorney's fees.

Response: Admit.

36. During that June 10, 2024 hearing, Owens provided false testimony about matters pertaining to her alleged pregnancy.

Response: Respondent lacks sufficient information upon which to form a belief as to the accuracy of this allegation, and therefore denies same.

37. Respondent failed to correct or clarify Owens' false testimony during direct examination or redirect examination.

Response: This allegation misstates the facts and is based on a false premise – i.e., that Respondent *knew* Ms. Owens was testifying falsely. Respondent did *not* know Ms.

Owens was testifying falsely, and thus was under no obligation to correct or clarify such testimony. Respondent otherwise denies the allegation of this paragraph.

38. On June 18, 2024, Judge Mata entered an Under Advisement Ruling regarding the June 10, 2024 hearing, in which she found that (i) Owens failed to "meet the burden of clear and convincing evidence that [Echard] was the father of [Owen]'s alleged pregnancy"; (ii) Owens "acted unreasonably when she initiated litigation without basis or merit"; (iii) the Petition for Court Order for Paternity was "premature at best"; (iv) Owens "repetitively failed to comply with [Family Law Rule] 49 [regarding disclosure], even on Order of this Court"1 (Judge Mata did not find that Respondent had failed to comply with the disclosure or discovery rules or the Court's April 4, 2024 order compelling disclosure); (v) Owens "acknowledged [that] she altered hCG test results,[2] [and] an ultrasound and sonogram[3]"; (vi) "the petition was not filed in good faith, the petition was not grounded in fact or based on law, the petition was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party"; (vii) Owens "provided false testimony as to the viability of the pregnancy" in the paternity case, the order of protection case, and an injunction against harassment case filed by Echard; and (vii) Owens "knowingly presented a false claim, [and] knowingly violated a court order compelling disclosure or discovery such that an award of attorney fees and costs is appropriate under A.R.S. § 25-415."

Response: Respondent admits the court issued a ruling, the substance of which speaks for itself.

39. On August 16, 2024, Judge Mata issued an Order re: Application for Attorneys' Fees and Costs, directing Owens to pay a total of $149,219.76 in attorneys' fees and costs to Echard within 180 days.

Response: Admit.

40. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A

41. On February 21, 2024, Judge Mata issued a minute entry order in the paternity case regarding the status conference held on that date, which stated in part: [text is quoted]

Response: Admit.

42. On April 1, 2024, Respondent filed a Motion for Extension of Time to Respond to Respondent [Echard]'s [March 11, 2024] Motion to Compel (hereafter Motion for Extension of Time to Respond), to which he attached a declaration that he signed.

Response: Admit.

43. Respondent included the following in his April 1, 2024 Motion for Extension of Time to Respond: (a) a reproduction of a portion of Owens' "Lab Results History" report dated June 1, 2023; (b) a portion of an "Unable to Process Request" notice from Banner Health regarding Owens; and (c) a portion of a receipt from Banner Urgent Care regarding Owens dated June 1, 2023.

Response: Admit.

44. Respondent included the following in his April 1, 2024 declaration: (a) a reproduction of a portion of Owens' "Lab Results History" report dated June 1, 2023; (b) a portion of a receipt from Banner Urgent Care regarding Owens dated June 1, 2023; (c) a portion of an "Unable to Process Request" notice from Banner Health regarding Owens; and (d) copies of messages between Owens and Dr. Joshua Makhoul.

Response: Admit.

45. Respondent knowingly violated Judge Mata's order by disclosing information and documents related to Owens' medical records in his Motion for Extension of Time to Respond and declaration.

Response: DENY.

46. Respondent failed to file a motion to seal either his April 1, 2024 Motion for Extension of Time or his declaration, despite Judge Mata's February 21, 2024 minute entry order.

Response: Respondent cannot admit nor deny the allegations of this paragraph because it is based on a false premise; i.e., that Respondent was under an obligation to file a Motion to Seal. No such obligation existed at the time, nor was there any lawful basis for such a duty to have been imposed, nor was there any legal basis to seek an order allowing any documents to be filed under seal.

47. On April 4, 2024, Respondent posted the following on his law office blog:

> . . . [O]n October 16, 2023, Laura had a blood test done at a lab. Wanna guess what the results showed? PREGNANT. But don't take my word for it, the report can be viewed right here.

Response: Admit.

48. Respondent knowingly violated Judge Mata's February 21, 2024 order by including a link on his blog that led to Owens' October 17, 2023 Sonora Quest Laboratories' medical report.

Response: DENY.

49. Also on April 4, 2024, Gregg Woodnick, Echard's counsel, sent an email message to Respondent, which stated in part: "I am also not certain why you are publishing

court documents and your client's personal medical records contrary to court order. Laura [Owens] needs to comply with the order and provide disclosure."

Response: Admit that Gregg Woodnick sent an email which contained certain statements, the substance of which speak for themselves. Affirmatively allege the above statement is not a complete discussion of the subject matter.

50. That email message from Attorney Woodnick placed Respondent on notice that he needed to take some action to seal Owens' medical information and documents.

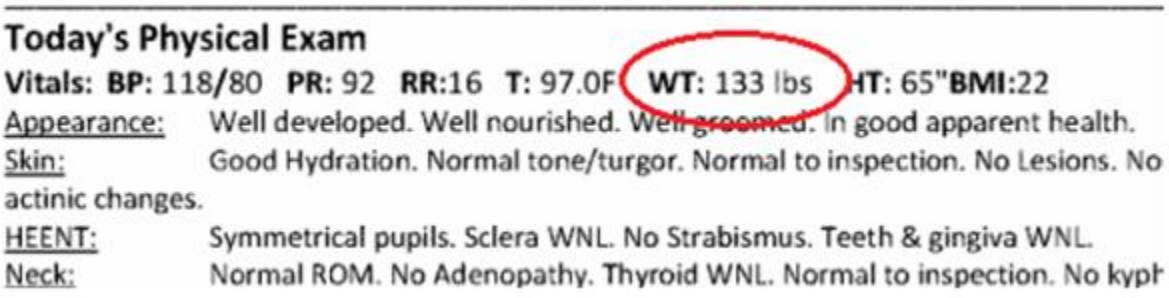
Response: Deny.

51. Despite notice from Echard's counsel regarding his violation of Judge Mata's February 21, 2024 order, Respondent failed to file a motion to seal Owens' medical information and documents that he had disclosed in his April 1, 2024 Motion for Extension of Time to Respond and attached declaration.

Response: Respondent cannot admit nor deny the allegations of this paragraph because it is based on a false premise; i.e., that Respondent was under an obligation to file a Motion to Seal. No such obligation existed at the time, nor was there any lawful basis for such a duty to have been imposed, nor was there any legal basis to seek an order allowing any documents to be filed under seal.

52. On or about April 19, 2024, Respondent posted the following on his law office blog (and/or other social media), which included a portion of one of Owens' medical reports:

Guess what Laura's weight was on November 14th? It's right there in the records (which Clayton's lawyer has), so you can read the number for yourself.



Today's Physical Exam

Vitals: BP: 118/80 **PR:** 92 **RR:**16 **T:** 97.0F **WT:** 133 lbs **HT:** 65" **BMI:**22

Appearance: Well developed. Well nourished. Well groomed. In good apparent health.

Skin: Good Hydration. Normal tone/turgor. Normal to inspection. No Lesions. No actinic changes.

HEENT: Symmetrical pupils. Sclera WNL. No Strabismus. Teeth & gingiva WNL.

Neck: Normal ROM. No Adenopathy. Thyroid WNL. Normal to inspection. No kyph

Response: Admit.

53. On April 26, 2024 (a Friday), at approximately 5:52 p.m., Respondent filed Petitioner's Response to Respondent's Amended Motion for Relief Based on Fraud (hereafter "April 26, 2024 Response").

Response: Admit.

54. Respondent's filing of the April 26, 2024 Response did not, at the time he filed it, become a matter of public record.

Response: Deny.

55. That April 26, 2024 Response included a summary of portions of Dr. Deans and Dr. Justicia-Linde's expert report, which they had prepared for Echard (e.g., pages 8 through 11, under the heading "Ms. Owens Was Pregnant," discussed Dr. Deans and Dr. Justicia-Linde's expert report, and a quotation taken from Drs. Deans and Justicia-Linde's expert report appeared near the bottom of page 10).

Response: Admit.

56. Attached to that April 26, 2024 Response was a copy of Dr. Deans and Dr. Justicia-Linde's expert report and Dr. Deans' curriculum vitae.

Response: Admit.

57. That April 26, 2024 Response discussed the report provided by Owens' medical expert, Dr. Michael Medchill; attached to that April 26, 2024 Response was a copy of Dr. Medchill's expert report and curriculum vitae.

Response: Admit.

58. Also attached to that April 26, 2024 Response were copies of Owens' medical records and other documents relevant to Echard's claims (e.g., Owens' affidavit dated April 16, 2024, included information from Owens' medical records and portions of her medical reports/records).

Response: Admit.

59. At approximately noon on Saturday, April 27, 2024, Respondent posted on his publicly accessible personal X (formerly Twitter) account, his law firm website and/or other social media a link to, among other things, his April 26, 2024 Response, which included portions of Owens' medical information and documents.

Response: Admit.

60. Respondent knowingly violated Judge Mata's February 21, 2024 minute entry order by posting Owens' medical information and documents on his X account or other social media.

Response: Deny.

61. On April 29, 2024, the Maricopa County Superior Court Clerk's Office docketed Respondent's April 26, 2024 Response, at which time that document became a public record available to the public through the Clerk's Office.

Response: Deny. Respondent affirmatively alleges the State Bar's allegation contains a material misstatement of the law; i.e., that an electronically filed document is *not* deemed a public record until it is *docketed* by the clerk. That statement is materially false. *See* Ariz. Code of Jud. Admin. § 1—901(R) (setting forth electronic filing rules and procedures for Arizona courts, and explaining, "A submission is deemed filed on the date and time it is received by the EFSP [Electronic Filing Service Provider] unless the clerk later rejects the document based on a deficiency.") (emphasis added). The pleading which is the subject of this allegation was *not* rejected by the clerk based on a

deficiency. As such, the matter was deemed filed, and therefore a matter of public record, on the date and time it was *received* by the Electronic Filing Service Provider, not the date and time it was subsequently docketed by the Clerk of Court. Under Arizona law, and under controlling United States Supreme Court precedent, a document filed with a court IS a public record, regardless of when (if ever) the clerk makes that document available online.

62. Neither Dr. Samantha Deans nor Dr. Faye Justicia-Linde consented to the publication of their expert report because it contained a review of Owens' private medical records, which was intended solely for the attorneys and the Court's review.

Response: Deny. By agreeing to appear as experts, and by submitting an expert report for use in the case, both Dr. Samantha Deans nor Dr. Faye Justicia-Linde knowingly and voluntarily consented to the publication of their expert report because the Arizona Rules of Family Law Procedure require all expert reports to be disclosed in the absence of a protective order which the court repeatedly refused to enter in this case. *See* Ariz. R. Fam. L. P. 49(j). In the absence of a specific court order prohibiting the disclosure of a specific expert report, there is no legal basis for an expert to require "consent" prior to the expert's report being published. In this case, no such order was ever issued. Respondent further notes that even if the court had issued a protective order limiting the disclosure of expert reports (which it did not), Mr. Woodnick never advised Respondent that the report of Drs. Deans and Justicia-Linde was marked confidential or that the sharing of the report was otherwise restricted in any way.

63. At no time did Respondent file a motion to seal (a) Owens' medical information or documents or (b) his April 26, 2024 Response, despite Judge Mata's February 21, 2024 minute entry order.

Response: Respondent cannot admit nor deny the allegations of this paragraph because it is based on a false premise; i.e., that Respondent was under an obligation to file a Motion to Seal. No such obligation existed at the time, nor was there any lawful basis for such a duty to have been imposed, nor was there any legal basis to seek an order allowing any documents to be filed under seal.

64. By engaging in the conduct set forth above, Respondent violated ER 3.4(c) by knowingly violating Judge Mata's February 21, 2024 order and court rules; ER 3.6(a) by making extrajudicial statements that he knew or reasonably should have known would be disseminated by means of public communication and that would have a substantial likelihood of materially prejudicing the paternity case; ER 4.4(a) by using means that had no substantial purpose other than to embarrass, delay, or burden any other person; and, Rule 54(c), Ariz. R. Sup. Ct., by knowingly violating Judge Mata's February 21, 2024 order.

Response: Deny.

65. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A.

66. Laura Owens obtained a Domestic Violence Restraining Order (DVRO) against Michael Marraccini in California, which was renewed and extended to September 11, 2025.

Response: Admit.

67. That DVRO required Marraccini to remain at least 100 yards away from Owens.

Response: Admit.

68. During the course of the paternity case, Echard's counsel disclosed to Respondent that he intended to call Marraccini as a witness.

Response: Admit, with the caveat that Mr. Marraccini's counsel later informed Respondent, both verbally and later confirmed in writing, that Mr. Marraccini was not going to appear at trial in Arizona, and that as a result of that statement from Mr. Marraccini's counsel (and in the absence of any evidence that Mr. Woodnick had obtained a *lawful* subpoena which could compel Mr. Marraccini to appear in Arizona), Respondent understood and believed that Mr. Marraccini was *not* a trial witness.

69. A few weeks later, just before the disclosure/discovery deadline, Echard's counsel informed Respondent that, contrary to information he (Respondent) had been given by Marraccini's California attorney, Marraccini would appear and testify at the hearing.

Response: Admit.

70. Neither Echard's counsel nor Marraccini nor Respondent filed a motion in the San Francisco County (California) Superior Court to modify the terms of the DVRO to allow Marraccini to testify in Arizona.

Response: Admit. Respondent further affirmatively alleges that he told Echard's counsel, Gregg Woodnick, that an order from the issuing court in California would be required to modify the DVRO against Mr. Marraccini, and that as a result of both Arizona law and federal law, the Maricopa County Superior Court could not disregard or modify the California court's order. In addition, Respondent specifically informed Mr. Woodnick that both federal law and Arizona state law required the Maricopa County Superior Court to give full faith and credit to the California DVRO by enforcing that order, as written:

> Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory [1] as if it were the order of the enforcing State or tribe.

18 U.S.C. § 2265(a)

> A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction.

A.R.S. § 13–3602(V).

71. On April 30, 2024, Respondent filed a Motion in Limine asking the Court to preclude Marraccini from testifying because (a) his testimony would elicit improper Rule 404(b) evidence and (b) Echard's counsel had allegedly failed to comply with the disclosure rules regarding the nature of Marraccini's testimony; Respondent did not reference the existence of the DVRO in that Motion in Limine.

Response: Admit that Respondent filed a Motion in Limine, the substance of which speaks for itself.

72. Also on April 30, 2024, Respondent filed an Emergency Motion to Strike and Request for Immediate Telephonic Scheduling Conference (hereafter "Emergency Motion to Strike"), which included a request for an immediate scheduling conference to address whether Echard's counsel would be permitted to call three newly-disclosed witnesses (one of whom was Marraccini) at the June 10, 2024 hearing.

Response: Admit.

73. On or about May 7, 2024, Echard's attorney subpoenaed Marraccini to testify as a Rule 404(b) witness at the hearing scheduled for June 10, 2024.

Response: Deny. Respondent is aware that Echard's counsel has *claimed* that he sent an Arizona subpoena to Mr. Marraccini at some point. Respondent affirmatively alleges an Arizona trial subpoena is not legally enforceable outside the State of

Arizona, and that an Arizona subpoena could not have *lawfully* compelled any witness to travel from outside the state for the purpose of attending a hearing in Arizona.

74. Marraccini was aware of the paternity case, and agreed to voluntarily appear and testify in Arizona at the June 10, 2024 hearing.

Response: Admit Marraccini was aware of the case. Affirmatively allege Marraccini appeared in Arizona on June 10, 2024, but that Marraccini did NOT agree to testify at the hearing. On the contrary, as his attorney previously stated to Respondent, Mr. Marraccini *knew* he would not testify as a witness at the hearing.

Respondent further affirmatively alleges Marraccini has made public statements admitting: "I knew I wasn't going to be testifying [at the trial]". https://youtu.be/nhdseYCE9WU?si=kNHCtDZmhbq4HxPQ&t=5804 (at timestamp 01:36:44)

75. In an email message from Respondent to Echard's counsel on May 8, 2024, Respondent stated:

> This goes without saying, but to the extent I suggested [that] Mike [Marraccini] would be arrested if he comes to court in AZ, that suggestion is completely and totally withdrawn. I only said that because I didn't want Mike to show up without giving me the chance to at least interview him (as I would with any normal witness). As long as Mike agrees to have a reasonable call to answer to [sic] some questions, I'll stipulate and agree [that] his appearance in AZ is NOT a violation of anything[,] and will not expose him to arrest or other legal consequences.

Response: Respondent admits an email was sent (as part of a much longer and more detailed discussion), and that the quoted text appears in one such email. Respondent affirmatively alleges the quoted text does not accurately reflect the *complete* conversation on this subject.

76. Marraccini did not make himself available for Respondent to interview.

Response: Admit.

77. On May 21, 2024, Judge Mata issued a minute entry order denying Respondent's Motion in Limine.

Response: Admit.

78. On June 3, 2024, to preserve the issue of the propriety of Marraccini testifying at the June 10, 2024 hearing, Respondent filed a Pretrial Statement that addressed that issue.

Response: Admit.

79. In that Pretrial Statement, Respondent explained that it would be a crime for Marraccini to violate the California DVRO, and that any violation of the order by Marraccini would subject him to arrest.

Response: Admit.

80. That Pretrial Statement also stated that "[the] issue has been reported to Court security by undersigned counsel [Respondent][,] who has requested that Mr. Marraccini be arrested if he violates the DVRO, as the law requires."

Response: Admit.

81. Also on June 3, 2024, Respondent called security personnel at the Maricopa County Superior Court and spoke with Officer Gibbs, informing him that Owens had a valid DVRO from California and that she was concerned that he intended to violate the order by appearing at trial.

Response: Admit.

82. Also on June 3, 2024, Respondent sent an email message to Officer Gibbs, to which he attached a copy of the California DVRO.

Response: Admit.

83. Respondent's June 3, 2024 email message to Officer Gibbs stated that "court approval for [Marraccini] to appear [at trial] has not been granted, and the DVRO contains no exceptions for in-person contact like this."

Response: Admit.

84. Judge Mata had previously denied Respondent's April 30, 2024 Motion in Limine (to prevent Marraccini from testifying), but had not yet ruled on his objection to Marraccini's testimony, which he set forth in a Petitioner's Pretrial Statement filed on June 3, 2024.

Response: Admit.

85. Respondent also claimed in his June 3, 2024 email message to Officer Gibbs that if Marraccini appeared in court, he would clearly violate the DVRO.

Response: Admit.

86. Respondent additionally claimed in his June 3, 2024 email message to Officer Gibbs that "[d]ue to the short time before trial, [he] cannot raise this issue with Judge Mata before next week."

Response: Admit.

87. On June 4, 2024, Echard's counsel sent an email message to Officer Gibbs and Judge Mata's court stating that a "valid subpoena" had been issued for Marraccini's appearance; Respondent was "copied" on that email message.

Response: Admit.

88. Echard's counsel suggested in that June 4, 2024 email message to Officer Gibbs that Respondent's act of requesting law enforcement to enforce Owens' DVRO qualified as an attempt to intimidate a witness, as set forth in A.R.S. § 13-2802.

Response: Admit.

89. Sometime prior to the June 10, 2024 hearing, Respondent sent an email message to Marraccini's California attorney, informing her that, because of the DVRO, Marraccini would be arrested if he attended the June 10, 2024 trial.

Response: Respondent alleges this paragraph materially misstates the facts. Respondent alleges that on May 6, 2024 Respondent sent an email to Marraccini's California attorney, Randi Sue Pollock, in which he stated, among other things:

> Ms. Pollock,
>
> I am writing to document our discussion just now and to explain my position. Per the email below, we spoke about your client Mike Marraccini about two weeks ago. At that time, I told you I just wanted to speak with Mike and hear his side of the story. I also explained that IF Mike was going to be a witness in the Arizona paternity matter, I could (and would) be willing to subpoena him for a deposition, if he was unwilling to have a simple phone conversation.

In response to that discussion, you sent me the email below stating that Mr. Marraccini was NOT going to testify at the trial in June.

Since then, counsel for Mr. Echard has indicated Mr. Marraccini WILL be testifying in person at trial in June. This is, of course, inconsistent with what you said below.

To clarify the situation, I called you again today to ask if it was possible for me to speak with Mr. Marraccini. Your response was (to paraphrase): "No, we are not willing to cooperate with you."

In light of that response I want to make two things clear:

1.) If Mr. Marraccini intends to testify at trial, then I have an absolute right to know this, and I have a right to interview him. That interview can be done informally in a phone call, or it can be done formally in a deposition. Either way, refusing to cooperate is NOT an available option IF Mr. Marraccini wants to participate as a trial witness.

2.) On the phone, you suggested Mr. Marraccini may just "show up" at trial rather than participating as a subpoenaed witness (i.e., he would simply choose to be there, either as a spectator, or as a non-subpoenaed witness).

If that is his plan, I need to be clear about our position – if Mr. Marraccini shows up as *either* a spectator or as a non-subpoenaed witness, Laura will ask the Phoenix Police to have Mr. Marraccini immediately arrested for violating the restraining order issued against him (copies attached).

In short, I agree Mr. Marraccini CAN testify at trial without fear of arrest, *provided* he complies with the rules of procedure. That means, among other things, I have the right to interview him and take his deposition if necessary.

If Mr. Marraccini does not want to comply with the procedural rules, that's 100% OKAY. I am more than happy if he wants to stay home (assuming he hasn't been lawfully summoned). But if he comes within 100 yards of Laura without being compelled to appear by valid subpoena, then he will risk arrest and prosecution for violating the restraining order.

NOTE – Rule ER 3.4(f) of the Arizona Rules of Professional Conduct provides a lawyer shall not: "request a person other than a client to refrain from voluntarily giving relevant information to another party…."

> Based on this rule, I *assume* Mr. Woodnick has not instructed you or Mr. Marraccini to refrain from speaking to me. If that has occurred, it would be a *per se* violation of the ethical rules.
>
> Also, and just to be clear – I am not, under any circumstances, suggesting Mr. Marraccini should *not* participate in the trial if he has relevant information. All I am saying is that if he WANTS to testify, he needs to do so in a manner that complies with the rules and the law. This is mandatory to ensure basic fairness to ALL sides

Respondent further affirmatively alleges that he made multiple attempts to negotiate with Mr. Echard's counsel to ensure that Mr. Marraccini could appear and testify at trial, while also doing so in a manner that did not violate the California DVRO. Respondent even told Mr. Woodnick that as an attorney licensed to practice law in California, he (Respondent) would agree to prepare and file a stipulation with the California court which would modify the existing DVRO to allow Mr. Marraccini to travel to Arizona for the purpose of testifying at the Arizona hearing. Mr. Woodnick rejected this offer without any explanation, and instead Woodnick aided and abetted Mr. Marraccini's criminal violation of the California court's order for the sole purpose of allowing Mr. Marraccini to terrify Ms. Owens by sitting less than 30 feet away from her despite the fact he had no intention of testifying, and did not testify.

90. On the morning of June 10, 2024, when Owens saw Marraccini in the parking lot, Respondent contacted Court security personnel, but he was informed that they were unable to help.

Response: Respondent admits that on June 10, 2024, Owens (and Respondent) saw Mr. Marraccini in the parking lot less than 300 feet away from Owens. At that time, Ms. Owens asked Respondent to contact court security to seek help, which he did. Ms. Owens further told Respondent that if he did not contact law enforcement, she would not be able to remain in court due to her fear of Mr. Marraccini. Respondent was extremely concerned that if he did not do everything possible to resolve Ms. Owens' concern, she would leave, resulting in extreme prejudice to the administration of justice. For that reason, Respondent initially contacted court security for assistance. In response, court security advised Respondent they could not arrest anyone for violating a court order, and that the only way to seek enforcement was to contact the Phoenix Police Department. In response to that suggestion from court security, Respondent contacted Phoenix Police for assistance.

91. Shortly thereafter, Respondent called 9-1-1 from the courthouse parking lot to report Owens' concerns about Marraccini's ostensible violation of the DVRO.

Response: Respondent admits calling 9-1-1, but not from the parking lot. The call was made while inside the courthouse while Respondent was standing at the court security station, following advice from court security staff who told Respondent to call Phoenix PD.

92. Prior to commencement of the June 10, 2024 hearing, Court security personnel and/or the Maricopa County Sheriff's Office (MCSO) informed the Court that

Respondent had called 9-1-1 from the parking lot of the Northeast Justice Court building and attempted to have Marraccini arrested for violation of the DVRO.

Response: Respondent is not aware of what law enforcement told the court regarding this issue because Respondent was not present when law enforcement officers spoke with the judge.

93. Judge Mata or a member of her staff, through Court Security personnel and/or MCSO, informed the responding police officers that Marraccini was responding to a valid subpoena and was not to be detained prior to his testimony.

Response: Respondent is not aware of what the judge or her staff told law enforcement regarding this issue because Respondent was not present when law enforcement officers spoke with the judge.

94. On June 10, 2024, Court security personnel escorted Respondent and Owens from the parking lot to the courtroom prior to the hearing.

Response: Admit.

95. At the June 10, 2024 hearing, Judge Mata allowed Respondent to argue on the record (before any witness was called) his objection to Marraccini testifying.

Response: Admit.

96. Respondent argued nondisclosure as a basis for precluding Marraccini's testimony, as well as the existence of the DVRO, stating:

> The second issue, Your Honor, deals with this California court restraining order. I think you have a copy of it. It's one of our trial exhibits. We have a court record from the State of California that prohibits Mr. Marraccini from being within a hundred yards of Ms. Owens. He's in violation of it right now. There is no exception for court appearances. She [Owens] is so terrified that she may not be able to sit here during this trial. Under the full faith and credit clause of the U.S. Constitution and also under federal law, this Court is required to enforce that order as it is written. You can't change it, you can't modify it, you can't disregard it. And[,] yet here we are.

Response: Admit.

97. Judge Mata affirmed her prior ruling allowing Marraccini to testify.

Response: To the extent the reference to "her prior ruling" refers to the court's prior rulings on issues *other than* the DVRO, admit. With respect to the DVRO issue, that issue was never briefed prior to June 10, 2024, and the court made no rulings as to the DVRO issue before ruling from the bench on June 10, 2024.

98. Marraccini was sworn to testify in court on June 10, 2024, but never testified.

Response: Admit.

99. Based on the conduct set forth above, Respondent violated ER 3.4(a) and ER 8.4(a) by unlawfully attempting to obstruct Clayton Echard's access to Marraccini's testimony, ER 4.4(a) by using means that had no substantial purpose other than to embarrass, delay or burden Echard or his counsel, and ER 8.4(d) by engaging in conduct prejudicial to the administration of justice.

Response: Deny.

100. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A.

101. Respondent knowingly made unprofessional, disparaging and inappropriate comments about Judge Mata's qualifications and/or integrity in documents filed with the court and in posts he made on social media account(s).

Response: Respondent admits making certain statements regarding Judge Mata, the contents of which speak for themselves. Respondent affirmatively alleges every statement he made regarding Judge Mata was factually true, or was made with a good faith basis to believe it was true, or was an opinion protected by the First Amendment to the United States Constitution and by the Arizona Constitution.

102. On July 8, 2024 (20 days after Judge Mata entered her Under Advisement Ruling regarding the June 10, 2024 hearing), Respondent filed a Notice of Change of Judge for Cause; Memorandum & Affidavit in Support (hereafter "Notice of Change of Judge for Cause"), which was unprofessional and inappropriately disparaging of Judge Mata. For example, Respondent stated the following in the Notice: [quoted text]

Response: Respondent admits making certain statements regarding Judge Mata, the contents of which speak for themselves. Respondent affirmatively alleges every statement he made regarding Judge Mata was factually true, or was made with a good

faith basis to believe it was true, or was an opinion protected by the First Amendment to the United States Constitution and by the Arizona Constitution.

103. Sometime prior to September 3, 2024 (which was during the pendency of Owens' appeal from Judge Mata's Under Advisement Ruling dated June 18, 2024), Respondent posted the following on his law firm's or personal blog, X (formerly Twitter) account and/or other social media: [quoted text]

Response: Respondent admits making certain statements regarding Judge Mata, the contents of which speak for themselves. Respondent affirmatively alleges every statement he made regarding Judge Mata was factually true, or was made with a good faith basis to believe it was true, or was an opinion protected by the First Amendment to the United States Constitution and by the Arizona Constitution.

104. Respondent's comment (above) pertained to Judge Mata's inadvertent reference to an incorrect Family Law rule regarding the final judgment language in her June 18, 2024 Under Advisement Ruling regarding the June 10, 2024 hearing (she referenced Rule 78(b) of the Arizona Rules of Family Law Procedure instead of Rule 78(c); she corrected that inadvertent error on February 18, 2025, after the Arizona Court of Appeals remanded the matter to superior court).

Response: Deny.

105. Sometime prior to September 3, 2024 (during the pendency of Owens' appeal), Respondent posted the following on his law firm's or personal blog, X 23 (formerly Twitter) account and/or other social media:

(Respondent's reference to Judge Mata committing a crime pertained to her alleged failure to enforce the DVRO against Marraccini by allowing him to attend the June 10, 2024 hearing and be within 100 yards of Owens).

Response: Admit Respondent published the statement in question, but deny that the statement was *solely* limited to Judge Mata committing a crime related to her alleged failure to enforce the DVRO against Marraccini. For instance, although Judge Mata committed a federal crime in violation of 18 U.S.C. § 242 by willfully violating Laura's rights by refusing to enforce the California DVRO, and by intentionally violating Laura's right to due process, Judge Mata also committed other crimes including a violation of 18 U.S.C. § 1513(e) (which she violated by retaliating against Respondent for contacting law enforcement to report the *possible* commission of a federal crime by Mr. Marraccini).

106. On December 16, 2024, Respondent posted the following on his law office blog/website, which stated that "Google is not a valid legal source of evidence . . . . unless your case is assigned to Judge Mata": [quoted text]

Response: Admit.

107. On December 10, 2024, Respondent recorded a podcast in which he stated the following: At 27:25 minutes – "If Judge Mata was a person who cared about the rules, . . . she would have sanctioned [Echard's counsel] Woodnick for making a false statement about the law, and she could have referred him to the State Bar like she did with me."

Response: Admit.

108. Based on the conduct set forth above, Respondent violated ER 4.4(a) by using means that have no substantial purpose other than to embarrass or burden Judge Julie Mata, ER 8.2(a) by making a statement with reckless disregard as to its truth or falsity concerning Judge Mata's qualifications or integrity, ER 8.4(d) by engaging in conduct prejudicial to the administration of justice, and Rules 41(b)(3) and (7), Ariz. R. Sup. Ct., by failing to maintain the respect due to the court and Judge Mata and engaging in unprofessional conduct (including by making public statements about Judge Mata's qualifications or integrity that were objectively false or made with reckless disregard as to their truth or falsity).

Response: Deny.

109. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A.

110. On November 21, 2024, Respondent sent an email message to Laura Owens and copyright@reddit.com, in which he identified himself as a lawyer in Phoenix, Arizona representing Owens in her case against Echard.

Response: Admit Respondent sent an email, the contents of which speak for themselves.

111. That November 21, 2024 email message, which Respondent made available to Reddit employees when he sent it to copyright@reddit.com, stated in part:

Clayton [Echard]'s fans are, generally speaking, total fucking psychotic assholes. . . . . Clayton's fans, being the total fucking assholes that they are, have come up with a new plan . . ..

Response: Admit.

112. On December 4, 2024, Respondent filed a Request for Subpoenas to Identify Infringers pursuant to 17 U.S.C. § 512(h); and Supporting Declaration (hereafter "Request for Subpoenas"); Respondent included a copy of his November 21, 2024 email message as Exhibit A to that Request for Subpoenas.

Response: Admit.

113. By engaging in the conduct set forth above, Respondent violated Rule 41(b)(7), Ariz. R. Sup. Ct., by engaging in unprofessional conduct.

Response: Deny.

114. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A.

115. Echard's counsel deposed Laura Owens on March 1, 2024 (approximately three weeks before Owens hired Respondent).

Response: Admit.

116. During Owens' deposition, she testified that she had (a) an ultrasound performed at Planned Parenthood on July 7, 2023, in Mission Viejo, California; (b) altered the California Planned Parenthood sonogram to say "SMIL" (Southwest Medical Imaging) instead of Planned Parenthood; (c) had gone to Planned Parenthood anonymously; (d) added her name to the sonogram; (e) not changed the date on the sonogram from July 2, 2023, to July 7, 2023; and (f) altered the sonogram at home using Adobe Acrobat.

Response: Admit.

117. On March 11, 2024, Echard's counsel filed a Motion to Compel the production of, among other things, the original records from "Planned Parenthood – Mission Viejo Health Center."

Response: Admit.

118. On March 25, 2024, Respondent sent an email message to Echard's counsel stating he would take a "trust but verify" approach with Owens, and that he would actively investigate every detail of what she had said, looking for information that contradicted her statements.

Response: Admit.

119. On March 27, 2024, Echard's counsel sent an email message to Respondent, stating that (a) Owens' prior counsel had presented records to the court (including medical records and letters from law firms) that were fabricated by Owens, (b) Owens had "misused court processes in multiple states to perpetuate the most bizarre of cons for relationships," and (c) four men had documented Owens faking pregnancies and fabricating medical records.

Response: Admit.

120. That March 27, 2024 letter from Echard's counsel placed Respondent on notice that he needed to be diligent in (a) ensuring that Owens was truthful about her health, alleged pregnancy, medical records and events, and (b) determining

whether any legitimate evidence existed reflecting that Owens was pregnant and that Echard was the father.

Response: Deny.

121. On April 4, 2024, Judge Mata signed an order granting Echard's Motion to Compel, directing Respondent to provide Echard with the following, among other things, by 5:00 p.m., April 19, 2024: "All medical records for Petitioner [Owens] from Planned Parenthood Mission Viejo from on or about July 7, 2023."

Response: Admit.

122. That April 4, 2024 order placed Respondent on notice that he had to diligently search for all of Owens' medical records at Planned Parenthood Mission Viejo from on or about July 7, 2023.

Response: Admit.

123. On April 10, 2024, Respondent reviewed Judge Mata's April 4, 2024 order and sent an email message to Owens regarding that order.

Response: Admit.

124. When Respondent asked Owens for information about the Planned Parenthood sonogram, she provided him with her username and password for her Planned Parenthood patient portal.

Response: Admit.

125. On April 15, 2024, at 1:55 p.m., Respondent logged in to Owens' Planned Parenthood patient portal.

Response: Admit.

126. When Respondent logged in to Owens' Planned Parenthood patient portal on April 15, 2024, records reflected that Owens had scheduled an appointment at Planned Parenthood in California under her real name (apparently in late June 2023).

Response: Admit.

127. Owens' Planned Parenthood patient portal also reflected an appointment scheduled for July 2, 2023, at a Planned Parenthood location in Costa Mesa, California (located in Orange County).

Response: Due to the amount of time that has passed, caused by unnecessary and prejudicial delay on the part of the State Bar, Respondent cannot recall precisely what information was reflected in the patient portal when he briefly viewed it nearly two years ago.

128. Owens' Planned Parenthood portal did not reflect an appointment at a Planned Parenthood location in Los Angeles.

Response: Due to the amount of time that has passed, caused by unnecessary and prejudicial delay on the part of the State Bar, Respondent cannot recall precisely what information was reflected in the patient portal when he briefly viewed it nearly two years ago. Having said that, Respondent believes this allegation is correct, but has no knowledge as to whether the specific "patient portal" he viewed would have included such information.

129. Although Respondent had checked Owens' Planned Parenthood portal on April 15, 2024, and knew it did not have records reflecting that Owens attended an appointment or had an ultrasound performed at the Mission Viejo location, he never took any steps to correct Owens' false deposition or June 10, 2024 hearing testimony that her ultrasound was performed in Mission Viejo or, additionally, in the case of the hearing, Los Angeles.

Response: Deny. Respondent affirmatively alleges (as he has *repeatedly* explained to bar counsel) that to the best of his knowledge, Ms. Owens' testimony at the June 10 trial was first time she had ever stated that she sought care from Planned Parenthood in *Los Angeles* as opposed to neighboring Orange County. As such, Respondent understood that when she changed her testimony on this issue on June 10th, Ms. Owens was in fact, doing so for the purpose of *correcting* her prior deposition testimony.

130. At some point in time, Respondent became aware that Echard's counsel had unsuccessfully sought copies of medical records pertaining to Owens from Planned Parenthood in Mission Viejo, California.

Response: Admit.

131. Upon learning that Echard's counsel had not obtained records from Planned Parenthood in Mission Viejo, Respondent was on notice that he needed to be more diligent and more closely scrutinize what Owens had told him.

Response: Deny.

132. Respondent was aware that Echard had alleged in his Motion to Compel that he (Echard or his counsel) had received confirmation from "nearly all providers" that Owens was never a patient of theirs.

Response: Admit that Respondent was aware of this allegation by Mr. Woodnick, and affirmatively alleged that Mr. Woodnick's statement to the court was *not* consistent with the actual testimony of Ms. Owens' providers, several of whom confirmed that she *was* a patient of theirs.

133. That Motion to Compel placed Respondent on notice that he needed to be diligent in (a) ensuring that Owens was truthful about her health, alleged pregnancy, medical records and events and (b) determining whether any legitimate evidence existed reflecting that Owens was pregnant and that Echard was the father.

Response: Deny.

134. Respondent learned prior to the June 10, 2024 hearing that Owens had not gone to a Planned Parenthood office in Mission Viejo, California.

Response: Deny.

135. Prior to the June 10, 2024 hearing, Owens told Respondent that she had made appointments with Planned Parenthood in southern California on two consecutive weekends: June 23 to 25, 2023, and June 30 to July 2, 2023.

Response: Admit.

136. Owens admitted to Respondent that she had altered the sonogram prior to the date she hired him.

Response: Admit that Owens admitted to *Mr. Woodnick*, during her deposition, prior to Respondent representing her, that she had altered the sonogram, and that based on Respondent's review of the deposition transcript, he learned of that admission.

137. On April 15, 2024, Respondent sent a draft affidavit to Owens to review and sign, after which she informed him by email about some possible changes, including the following: "[M]aybe don't include the ultrasound since I tampered with the top? I don't want [Dr. Medchill, Owens' expert witness] to question me and my credibility based on that."

Response: Admit.

138. On April 16, 2024, Respondent discussed with Owens the draft affidavit he had sent to her on April 15, 2024.

Response: Admit.

139. Later on April 16, 2024, Owens executed the affidavit that Respondent had drafted, and which was attached to the April 26, 2024 Response [to Respondent Echard's Amended Motion for Relief Based on Fraud].

Response: Admit.

140. Owens' affidavit included an image of the altered sonogram and stated, in part:

> 28. On July 2, 2023, while traveling in southern California, I made an appointment with Planned Parenthood for the purpose of obtaining pills to medically terminate the pregnancy. . . .
>
> 29. My mother drove me to the Planned Parenthood location on July 2, 2023, but she did not come into the facility with me. . . .
>
> 30. I took a photo of the sonogram screen with my phone, but I did not want Clayton [Echard] to know where I had gone for the appointment. To conceal that information, I modified the image to change the facility name from Planned Parenthood to SMIL (Scottsdale Medical Imaging), and I also changed the date from July 2, 2023[,] to July 7, 2023. A copy of the modified sonogram image is shown below.
>
> 31. Other than changing the top part of the image to alter the facility name and date, I did not change any other part of the image.

Response: Admit.

141. Respondent subsequently learned that Owens had allegedly gone to Planned Parenthood in late June 2023, but took no steps to correct that false statement in her April 16, 2024 affidavit.

Response: Deny.

142. The sonogram that Owens claimed was from Planned Parenthood (shown above) includes her real name even though that sonogram was not a sonogram that resulted from an ultrasound that had been performed on Owens; Owens stated in her affidavit under penalty of perjury, however, that she had not changed anything on the sonogram other than the name of facility and date.

Response: Respondent cannot understand what this allegation is claiming, and therefore denies same.

143. During Owens' March 1, 2024 deposition, she testified that she went to Planned Parenthood anonymously, and that she later added her name to the sonogram; Respondent read Owens' March 1, 2024 deposition transcript on April 8, 2024.

Response: Admit.

144. Respondent became aware that Owens had falsely testified during her March 1, 2024 deposition that she obtained the ultrasound on July 7, 2023.

Response: Admit.

145. Owens told Respondent that she went to Planned Parenthood anonymously and then later, at the June 10, 2024 hearing, testified she went to Planned Parenthood using a fake name.

Response: Respondent cannot admit or deny the allegations of this paragraph because they appear to either misstate the facts or combine two different issues.

146. Based on Respondent's review of the transcript of Owens' March 1, 2024 deposition, he knew that Owens either (a) testified falsely at her deposition by stating she had gone to Planned Parenthood anonymously, and subsequently changed the name of the facility and added her name to the sonogram, but did not change the date on it or (b) signed a false affidavit, which he filed, that stated she altered only the facility name and date.

Response: Deny.

147. Respondent failed to take steps to address Owens' false testimony during her deposition or to address her false affidavit.

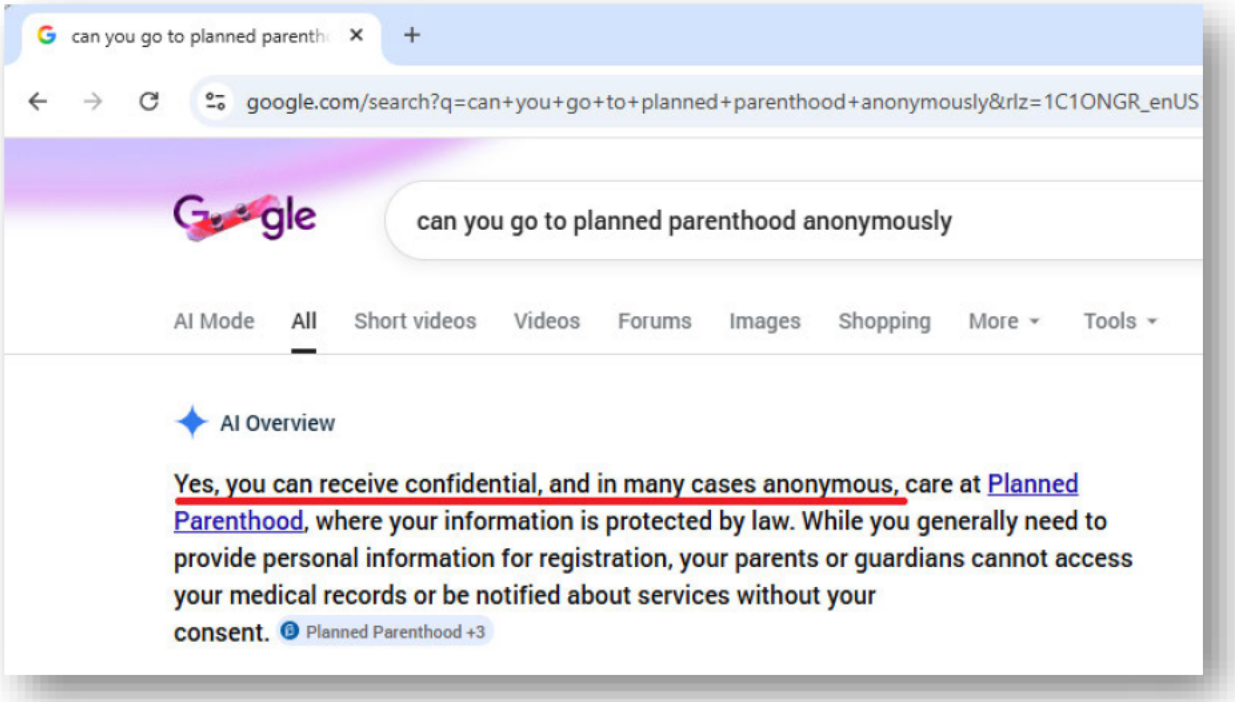
Response: Deny.

148. Respondent never obtained from Owens the original, unaltered sonogram that she allegedly obtained from Planned Parenthood in California.

Response: Admit.

149. Respondent failed to verify with Planned Parenthood whether it treats people anonymously, or people using fake names.

Response: Deny, and affirmatively allege due to medical privacy laws, it is not possible to conclusively "verify" whether Planned Parenthood has ever provided care to anyone anonymously, and/or whether Planned Parenthood has ever violated its own policies in this regard. In addition, anecdotal evidence appears to confirm that Planned Parenthood *does* provide both confidential AND anonymous care (to the extent Dr. Deans testified to the contrary on this issue, Respondent assumes the State Bar is in the process of pursing discipline against Mr. Woodnick for suborning perjury):



150. On April 18, 2024, Respondent sent an email message to Owens stating that he had told Echard's counsel that she went to Planned Parenthood on July 2, 2023, but that he had located an email message from her to Dr. Zieman dated June 28, 2023, stating that she had gone to Planned Parenthood the previous weekend.

Response: Admit.

151. On June 3, 2024, Cory Keith, the attorney who represented Owens immediately prior to Respondent's representation of her, filed a notice in the paternity case captioned as "Ethical Rule 3.3 Notice of Candor" (hereafter "Notice of Candor").

Response: Admit.

152. In that Notice of Candor, Attorney Keith stated that he told the Court the following at a status conference on February 21, 2024: "[Owens] has not lied in this case. She has not intentionally lied to the Court."

Response: Admit.

153. Attorney Keith stated in that Notice of Candor that at the time he made those statements, he believed them to be true.

Response: Admit.

154. Attorney Keith further stated in that Notice of Candor that based on Owens' March 1, 2024 deposition testimony, he no longer believed the statements he made on February 21, 2024, were true.

Response: Admit.

155. Attorney Keith summarized Owens' deposition testimony in that Notice of Candor.

Response: Admit.

156. Attorney Keith included evidence in that Notice of Candor establishing that Owens had testified falsely before Maricopa County Superior Court Commissioner Cynthia Gialketsis several months earlier in Echard v. Owens, No. CV2023-053952, an injunction against harassment proceeding.

Response: Respondent is not aware of the "evidence" referred to in this paragraph.

157. Respondent failed to take steps to address Owens' false statement to Judge Gialketsis during the November 2, 2023 hearing on the petition for injunction against harassment.

Response: Respondent *again* reminds the Bar and the PDJ <u>that he did not represent Ms. Owens on November 2, 2023</u>, and was not present at that hearing. Respondent was not retained to represent Ms. Owens until March 25, 2024, and was not aware of any allegedly false statements Ms. Owens made in November

2023 until Mr. Keith took steps to correct any false statements Ms. Owens made at that hearing.

158. Attorney Keith also noted in that Notice of Candor that Owens testified before Judge Gialketsis, among other things, that she had been seen by Dr. Higley "last Friday" (14:40 minutes into hearing), but stated during her March 1, 2024 deposition that she had an appointment with Dr. Higley, but did not attend the appointment.

Response: Admit.

159. At some point in time prior to the June 10, 2024 hearing, Owens admitted to Respondent that she incorrectly testified before Judge Gialketsis that she had just been seen by Dr. Higley "Last Friday," but in reality, had only made an appointment to see him.

Response: Admit.

160. Although Respondent was aware of the content of the Notice of Candor, he failed to diligently investigate and research Owens' statements to him, which he presented to the Court.

Response: Deny.

161. Prior to June 10, 2024, Respondent reviewed (a) transcripts and video recordings of prior hearings, (b) Owens and Echard's deposition transcripts (taken before Owens hired Respondent), (c) the file maintained by Owens' second attorney (including documents he had prepared and filed), (d) the report prepared by Echard's expert witness, (e) disclosures made by Echard's counsel, (f) the medical records provided by Owens, and (g) possibly other records and information related to issues in the paternity case and related cases.

Response: Admit.

162. Based on the information that Respondent acquired during his representation of Owens, he was aware that Owens had (a) testified falsely before Judge Gialketsis, (b) made false statements during her deposition, (c) altered a sonogram (which he offered into evidence during the June 10, 2024 hearing), and/or (d) signed an affidavit that included false information, which was filed with the Court.

Response: Admit that at some point, Respondent learned that months before he agreed to represent her, Ms. Owens made inaccurate statements regarding "seeing Dr. Higley" versus "making an appointment to see Dr. Higley" at a hearing which Respondent did not attend and which were ultimately not relevant to any issue in the paternity action. Respondent further admits that at some point, he learned that Ms. Owens made admissions in her deposition to the effect that she had changed the facility name on the Planned Parenthood sonogram, which Ms. Owens admitted in her deposition before Respondent represented her. Respondent denies ever learning, prior to the conclusion

of the paternity case, that Ms. Owens had lied during her deposition, or that she signed an affidavit that contained false information.

163. Respondent knew that Owens had not been truthful about facts material to the paternity case, but did not withdraw from the case or take sufficient steps to address Owens' false statements and the altered sonogram.

Response: Deny. Respondent further affirmatively alleges sonograms are *not relevant nor are they material* to any issue the court may consider in a statutory paternity establishment case. Arizona family courts are not courts of general jurisdiction and they do not have subject matter jurisdiction *except* as conferred by statute. In a statutory paternity establishment case like *Owens v. Echard*, the outcome of the case cannot be decided (nor can it change) due to the presence or absence of a sonogram. Therefore, even if Ms. Owens had lied about one or more sonograms, those lies were NOT material to the case.

This is so because Arizona law sets forth the only ways in which a court can establish biological paternity in a contested case. In the absence of a voluntary admission[1] of paternity by an alleged father, the court may only establish paternity by applying one of these statutory presumptions as to the father:

> 1. He and the mother of the child were married at any time in the ten months immediately preceding the birth or the child is born within ten

[1] Like many other states, Arizona has a policy of encouraging children to be raised by willing parents, even when the parent is not biologically related to the child, as opposed to allowing children to become wards of the state. For that reason, Arizona allows a putative father to *admit* paternity even as to a child which is not biologically his.

months after the marriage is terminated by death, annulment, declaration of invalidity or dissolution of marriage or after the court enters a decree of legal separation.

2. *Genetic testing affirms at least a ninety-five per cent probability of paternity*.

3. A birth certificate is signed by the mother and father of a child born out of wedlock.

4. A notarized or witnessed statement is signed by both parents acknowledging paternity or separate substantially similar notarized or witnessed statements are signed by both parents acknowledging paternity.

A.R.S. § 25–814 (emphasis added).

Notably, **a sonogram is not listed among the relevant statutory factors a court may consider**, because a sonogram does not contain any information about the DNA of the child or the alleged father. As such, a sonogram is not relevant or material in a contested paternity action, and it cannot be used to meet the 95% DNA match required by A.R.S. § 25–814(A)(2). To meet that requirement, a DNA test is required, not a sonogram.

164. During that June 10, 2024 hearing, Owens testified on direct examination that she obtained a sonogram at Planned Parenthood in "California."

Response: Admit.

165. Owens testified on direct examination that she went to Planned Parenthood "under a fake name," which was contrary to her deposition testimony (that she went anonymously).

Response: The deposition and trial testimony of Ms. Owens is a matter of record. As for whether her trial testimony "was contrary" to her deposition testimony, this is a matter of argument which Respondent cannot admit or deny without reviewing both transcripts in full.

166. Respondent asked Owens on direct examination if she "change[d] the name at the top of the sonogram." Owens responded, "of the location, yes."

Response: Admit.

167. Owens testified on direct examination that the Planned Parenthood sonogram was obtained at "the end of June [2023]."

Response: Admit.

168. Owens admitted during cross-examination that she had stated during her deposition that the ultrasound had been performed in Mission Viejo on July 7, 2023.

Response: Admit.

169. Owens also testified during cross-examination that she had been staying in Mission Viejo during or about late June or early July 2023.

Response: Admit.

170. Owens further testified during cross-examination that she had changed the date on the sonogram from July 2, 2023, to July 7, 2023, and that the July 2, 2023 date was the correct date; that testimony conflicted with her deposition testimony when she stated she had not changed the date on the Planned Parenthood sonogram and her testimony during direct examination that the ultrasound was conducted in late June 2023.

Response: The deposition and trial testimony of Ms. Owens is a matter of record. As for whether her trial testimony "was contrary" to her deposition testimony, this is a matter of argument which Respondent cannot admit or deny without reviewing both transcripts in full.

171. During cross-examination, Echard's counsel reminded Owens that during direct examination by Respondent, she testified that she went to Planned Parenthood under a fake name.

Response: Admit.

172. During cross-examination, Echard's counsel informed Owens that the Planned Parenthood office for Orange and San Bernado Counties (California) had submitted a letter noting that she had scheduled an appointment for July 2, 2023, but that the appointment was cancelled and that the ultrasound image she relied upon, which she claimed to have obtained from Planned Parenthood in Mission

Viejo, was not consistent with ultrasound images from the Planned Parenthood offices in Orange and San Bernadino Counties.

Response: Admit.

173. Thereafter during cross-examination, Owens testified for the first time that her appointment was actually with Planned Parenthood in Los Angeles.

Response: Admit.

174. When asked during cross-examination when she went to Planned Parenthood in Los Angeles, Owens stated, "Exactly when I said I went. . . . July 2"; that testimony conflicted with her deposition testimony when she stated she had not changed the July 7, 2023 date on the Planned Parenthood sonogram and her testimony during direct examination that the ultrasound was conducted at the end of June 2023.

Response: Admit.

175. There was testimony presented during the June 10, 2024 hearing that Planned Parenthood requires patients to provide identification, and does not allow anyone to obtain services anonymously.

Response: Admit that Dr. Deans offered this testimony, but deny that Dr. Deans established that she had personal knowledge on this issue.

176. Respondent did not take any steps during direct or redirect examination to address Owens' false or inconsistent testimony (e.g., the discrepancy between the date she testified to (i) during direct examination for the ultrasound (the end of June 2023); (ii) the date she stated during cross-examination (July 2 and 7, 2023); and the date she testified to during her deposition (July 7, 2023)).

Response: As has been explained to bar counsel *repeatedly*, Respondent understood that when Ms. Owens changed her testimony at trial on June 10, 2024, that change was made *to correct previous errors in her deposition testimony*. Based on Ms. Owens taking steps to correct her own prior statements, Respondent had no reason to believe any *further* steps were required.

177. Based on the conduct set forth above, Respondent violated ER 1.3 by failing to act with reasonable diligence in representing Owens, ER 3.1 by asserting or controverting issues when he did not have a good faith basis in law and fact for doing so that was not frivolous, ER 3.3(a) and (b) by knowingly failing to take reasonable remedial measures when he knew that Owens intended to engage in, was engaging in or had engaged in criminal or fraudulent conduct related to the paternity case, ER 3.4(c) by knowingly disobeying an obligation under rules of the court, ER 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, ER 8.4(d) by engaging in conduct prejudicial to the administration of justice, and Rule 54(c), Ariz. R. Sup. Ct., by knowingly violating any rule or order of the court.

Response: Deny.

178. All allegations set forth above are incorporated herein as if set forth in full.

Response: N/A.

179. On September 5, 2024, Respondent filed a Notice of Appeal regarding the Order re: Application for Attorneys' Fees and Costs (Owens v. Echard, Arizona Court of Appeals No. 2 CA-CV 2024-0315).

Response: Admit.

180. On September 9, 2024, Respondent filed an Amended Notice of Appeal on Owens' behalf.

Response: Admit.

181. On November 14, 2024, Respondent filed an opening brief with Division Two of the Arizona Court of Appeals, which included non-meritorious arguments: (a) Respondent falsely asserted that Judge Mata ordered sanctions under Rule 26; (b) Respondent set forth scenarios that were not based on the facts, so they did not have any bearing on the propriety of the fees awarded; (c) Respondent failed to meaningfully challenge Judge Mata's findings of fact; and (d) Respondent's position on appeal was unreasonable, in part because his Rule 26 argument was not grounded in law or fact, and his assertion that Judge Mata was biased and committed

structural error failed to meaningfully address her rulings and ignored applicable law.

Response: Admit that Respondent filed a brief in the appeal. Deny that *any* arguments or assertions raised in the appeal were frivolous.

182. On March 28, 2025, Division Two of the Arizona Court of Appeals issued a memorandum decision denying Owens' appeal.

Response: Admit.

183. The Court of Appeals' memorandum decision stated in part: . . . [W]e note that a significant portion of Owens' appellate argument relies on her incorrect assertion that the trial court ordered sanctions [additional quoted text].

Response: Admit the Court of Appeals decision contains the quoted statements.

184. By engaging in the conduct set forth above, Respondent violated ER 1.3 by failing to act with reasonable diligence in representing Owens, ER 3.1 by asserting or controverting issues on appeal when he did not have a good faith basis in law and fact for doing so that was not frivolous, and ER 8.4(d) by engaging in conduct prejudicial to the administration of justice.

Response: Deny.

DEFENSES/DISPOSITIVE ISSUES

Without acknowledging the following points are affirmative defenses for which Respondent bears the burden of proof (as opposed to issues for which the State Bar bears the burden), Respondent alleges his conduct did not violate any ethical rule(s) for the following additional reasons:

1.) This Court lacks subject matter as to the alleged misconduct set forth in ¶¶ 109–113 of the Complaint. Those allegations accuse Respondent of acting unprofessionally when he sent an email that contained the words "assholes" and "fucking assholes". The email in question was sent by Respondent on his own behalf while acting to enforce his own legal rights. By acting to enforce his own rights, Respondent was not engaged in the practice of law; "one who acts only for himself in legal matters is not … practicing law." *Munger Chadwick, P.L.C. v. Farwest Dev. & Const. of the Sw., LLC*, 235 Ariz. 125, 127 n.3, 329 P.3d 229, 231 n.3 (Ct. App. 2014) (quoting *State ex rel. Frohmiller v. Hendrix,* 59 Ariz. 184, 190, 124 P.2d 768, 772 (1942)); "In Arizona, one who acts only for himself in legal matters is not considered to be engaged in the practice of law." *Connor v. Cal-Az Props., Inc.*, 137 Ariz. 53, 56, 668 P.2d 896, 899 (Ct. App. 1983) (citing *State ex rel. Frohmiller v. Hendrix,* 59 Ariz. 184, 190, 124 P.2d 768, 772 (1942)). While Respondent admits the Arizona Supreme Court has jurisdiction to regulate the practice of law, the Supreme Court (and this Court) do not have plenary jurisdiction over those who are *not* engaged in the practice of law, simply because they happen to be lawyers.

2.) Substantial parts of this matter (including the issue raised above) arise from speech and conduct which is protected by the First Amendment and by other legal authority. Accordingly, Respondent's actions are protected by Arizona's anti-SLAPP law, A.R.S. § 12–751. Respondent intends to seek dismissal of this matter pursuant to that statute within the time limit provided by A.R.S. § 12–751(D).

3.) The State Bar's allegations in this matter violate Respondent's Constitutional rights to due process and equal protection under the Fourteenth Amendment to the United States Constitution. Among other things, the State Bar has acted unlawfully by:

a. Seeking to punish Respondent for violating rules which are unconstitutionally vague, both on their face and as applied;

b. Seeking to punish Respondent for violating rules in a manner which violates his rights to free speech protected by the First Amendment and the Arizona Constitution;

c. Seeking to punish Respondent for violating court orders which were unconstitutionally vague and/or which conflicted with other orders such that they failed to provide Respondent with notice regarding the scope of prohibited conduct;

d. Selectively seeking discipline against Respondent in a manner which arbitrarily violates the State Bar's own policies;

e. Arbitrarily ignoring misconduct by others involved in the same matter;

f. Adopting arbitrary policies and applying them in an arbitrary and unfair manner;

g. Retaliating against Respondent for engaging in protected speech;

h. Engaging in prejudicial delay.

Respondent's Address

Pursuant to Sup. Ct. R. 58(b), Respondent's address is:

David S. Gingras
Gingras Law Office, PLLC
4802 E. Ray Road, #23-271
Phoenix, AZ 85044

Respondent confirms the above address is the address reported to the state bar pursuant to Sup. Ct. R. 32(c)(4)(iii).

WHEREFORE, Respondent prays for the following:

A. For an order finding that Respondent's conduct in this matter did not violate any rule of professional conduct;

B. For an award of Respondent's reasonable attorney's fees (if any) and costs pursuant to A.R.S. § 12-353 and/or A.R.S § 12-751;

C. For an award of costs to include damages for documented time away from employment pursuant to A.R.S § 12-751(F);

D. For such other and further relief as the Court deems appropriate.

Respectfully submitted: Feb. 19, 2026

/s/ David S. Gingras
David S. Gingras, #021097
Gingras Law Office, PLLC
[redacted]
Phoenix, AZ 85044
Tel.: [redacted]
[redacted]
Respondent

CERTIFICATE OF SERVICE

Original electronically filed via email to [redacted] on February 19, 2026 with:

Disciplinary Clerk of the
Office of the Presiding Disciplinary Judge
Supreme Court of Arizona
[redacted]
Phoenix, AZ 85007

Mr. James D. Lee, Esq.
Craig Henley, Esq.
State Bar of Arizona
c/o [redacted]
Phoenix, AZ 85016-6266

/s/ David S. Gingras